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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,749	07/17/2000	Jerry McKinney	Clearstrm-6	8682

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EXAMINER

BARRY, CHESTER T

ART UNIT PAPER NUMBER

1724

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,749

Applicant(s)

MCKINNEY, JERRY

Examiner

Chester T. Barry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Notice of Amendment Non-Compliant with 37 CFR 1.173

The amendment filed 2/17/04 fails to comply with 37 CFR 1.173(b)(1), (b)(2), (c), (d), (g). For example, the proposed amendment to the paragraph beginning at column 5 line 12 fails to comply with 37 CFR 1.173(b)(1) insofar as "[0012]" does not appear in that paragraph of the patent. Further, the last seven or so lines of the proposed amended paragraph, i.e., that portion beginning with, "[a]s depicted in Figs. 1 and 6," etc., fails to comply with 37 CFR 1.173(b)(1), (d) and (g) insofar as that text is added relative to the patent, i.e., not present in the patent, and not underlined.

The proposed amendment to claim 1, for example, fails to comply with 37 CFR 1.173(b)(2) and (d) at least because in line 2, "a vessel defining" is not underlined.

The entire amendment needs extensive proofreading and significant revision by applicant to bring the amendment in compliance with 37 CFR 1.173. ***No action on the merits will proceed unless and until the amendment is fully compliant with 37 CFR 1.173.***

The amendment filed 2/17/04 has not been entered. Applicant is given ***ONE MONTH*** to refile a supplemental amendment that complies with 37 CFR 1.173. Extensions of time are available under 37 CFR 1.136(a).

The examiner's reference to 37 CFR 1.121 in the last Office action is deeply regretted, but see the discussion of 37 CFR 1.173 found at pages 3 - 7 of the paper mailed 11/30/01.

Practice tip: In any reissue application, such as this one, it is suggested that applicant proofread amendments to the claims and specification in the following manner: Have one person, let's call that person Amen, read aloud in the most clearly enunciating voice from the draft response the claims and amended portions of the specification to another person, say, Pat, who listens excruciatingly carefully while reading along in silence off the corresponding portions of the **issued patent**: Not the last responsive paper. Not the reissue patent application as filed. The patent. Pat should gaze upon nothing but a copy of the issued patent (as corrected by any PTO-issued certificates of correction). As Amen comes upon a letter, word, phrase, or the like that is underlined on Amen's copy of the draft response, Amen prefaces such letters, words, phrases, or the like with, "begin underlining," and concludes the reading aloud of such letters, words, phrases, or the like with, "stop underlining." This practice alerts Pat that Pat should not expect to see that letter, word, phrase, or the like in the text of the patent itself. On the other hand, as Amen utters a letter, sound, word, punctuation, or the like that does not appear in Pat's copy of the issued patent, Pat would inquire of Amen, "Is that word, phrase, or the like underlined on your copy of the draft response?" Amen, we pray, would reply with, "Why yes, Pat, it is. Sorry I forgot to mention it. Let's proceed." Alternatively, Amen might reply, "Why, no, Pat, it isn't. Thanks for bringing that to my attention! I'll

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underline that word, phrase, or the like on the draft response right now with my red pen, and be sure that this response is revised on the word processor before it is filed with the Examiner. That way, the response will reflect the fact that these words, phrases, or the like appear in the amended claims, new claims, or amended specification, but do not appear in the patent as issued. Let's now continue proofreading."

Alternatively, as Amen comes upon a letter, word, phrase, or the like on Amen's copy of the draft response that is enclosed in brackets, i.e., "[. . .]," Amen prefaces the utterance of such letters, words, phrases, or the like with, "left bracket," and concludes utterance of such letters, words, phrases, or the like with, "right bracket." This practice alerts Pat that Pat should see that letter, word, phrase, or the like in the text of the patent itself. On the other hand, should Amen fail to utter a letter, sound, word, punctuation, or the like that appears in Pat's copy of the issued patent, Pat would inquire of Amen, "Did you skip over and fail to read aloud to me a word, phrase, or the like that is enclosed in brackets on your draft response?" Amen, we pray, would reply with, "Why yes, Pat, I did fail to do so. Sorry I forgot to bookend that word, phrase, or the like with 'left bracket' and 'right bracket.' It's all right here – proper bracketing and all. Now let's proceed." Alternatively, Amen might reply, "Why, no, Pat, it isn't. Thanks for bringing that to my attention! I'll insert a left bracket, the letter, word, phrase, punctuation mark, or the like under discussion, and a right bracket thereafter, right here on the draft response using my red pen. I'll be sure that this response is revised on the word processor to reflect the fact that these words, phrases, or the like are enclosed in brackets to indicate to the examiner and ultimately to the public that these words,

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phrases, and the like are being deleted from the patented claims or from the specification as issued. Let's now continue proofreading."

Alternatively, one might use a document editing tool such as the "Compare Documents" tool of Microsoft's WORD brand word processing software.¹ The examiner makes no representation of the fitness of such word processing tool for this or any other use.

Following this proofreading process, if any revisions were made to the draft, it might behoove the attorney and applicant to review the substance of the revised draft response to ensure that the underlined words, phrases, or the like do not through inadvertence unduly narrow the claim, nor inadvertently add new matter to the specification, and to ensure that the phrases enclosed in brackets do not unduly broaden the claimed scope or delete essential subject matter from the disclosure.

See attached (page 6)

¹ The foregoing reference to Microsoft's WORD product should not be interpreted as an endorsement thereof.

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For example →Amendments to the Specification

the beginning at line 12

Please replace paragraph ~~[0012]~~ in column 5 with the following amended paragraph:

The defined current or circulation pattern produced by this embodiment, as shown in FIG. 1, is such that oxygenation gas forces the fluid within the aeration chamber to move upwards in direction 100 from the diffuser until it reaches the surface of the liquid within the chamber. This forces a current which travels around the conical partition in both directions, as indicated by the numbers 102 and 104. As these currents meet on the opposite side of the partition, the intersection of the outer currents causes a downwardly flowing current 106 which flows to the bottom of the aeration chamber which creates main currents 108, 110, and 112 that sweep across the bottom in all directions. The water sweeping generally in a straight line across the bottom of the vessel in direction 108 moves with the greatest speed and serves to move any solid falling out of the clarifier chamber back into circulation in the aeration chamber, thus preventing any accumulation of solids in the bottom of the aeration chamber. The water moving generally around the outer perimeter of the vessel in directions 110 and 112 moves at a slower speed but with enough speed to scour the edges of the vessel and to sweep the solids into circulation. All areas of the bottom of the vessel are forced into circulation. Those areas intermediate between the path straight across the bottom of the vessel and the path around the outer perimeter travel respectively intermediate speeds. While FIG. 1 shows the entire circulation pattern, FIG. 5-7 show different views of parts of this pattern. As depicted in Figs. 1 and 6, the injection system generates an area of aerating bubbles adjacent the intersection of the side wall and the bottom wall that induces the current flow shown in Figs. 1 and 6. Thus, assuming that direction 100 in Fig. 1 depicts the current flow of the wastewater induced at an injection area adjacent the intersection of the side wall and the bottom wall of the aeration chamber, a branched current having runs indicated by 102 and 104 is produced. Accordingly, if multiple diffusers are used, they must be positioned in sufficient proximity to one another such that the current or circulation pattern depicted in Fig. 5 is achieved.

Please replace ^{the} paragraph ~~[0010]~~ in column 6 with the following amended paragraph: ^{BEGINNING AT LINE 10}

When a diffuser plugs up or for whatever reason a drop line needs to be removed for repair or replacement, the drop line is [discovered] disconnected from the external oxygenation gas source, such as an air compressor, and simply pulled out of the rigid conduit in which it is located and out of the tank through opening 14. The new or repaired hose and diffuser can then be threaded back through the rigid conduit and reconnected to the air compressor.

Chestert. Barry
CHESTERT. BARRY
 PRIMARY EXAMINER